

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, February 5, 2014
Place: U.S. Courthouse, 510 19th Street
Bakersfield, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

1:30 P.M.

1. [10-61900](#)-B-13 EDWARD/DEBRA COPELAND
PK-5
EDWARD COPELAND/MV

PATRICK KAVANAGH/Atty. for dbt.

CONTINUED OBJECTION TO CLAIM OF
BANK OF AMERICA, N.A., CLAIM
NUMBER 6
11-27-13 [[180](#)]
2. [10-61900](#)-B-13 EDWARD/DEBRA COPELAND
PK-7
EDWARD COPELAND/MV

PATRICK KAVANAGH/Atty. for dbt.

CONTINUED OBJECTION TO CLAIM OF
BANK OF AMERICA, N.A., CLAIM
NUMBER 17
11-27-13 [[184](#)]
3. [11-17000](#)-B-13 JESSE TREVINO
TJS-1
JPMORGAN CHASE BANK, N.A./MV
JEFF REICH/Atty. for dbt.
TIMOTHY SILVERMAN/Atty. for mv.
RESPONSIVE PLEADING, MOTION
WITHDRAWN

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-17-13 [[153](#)]

The motion has been withdrawn. No appearance is necessary.

4. [13-12900](#)-B-13 CRAIG/JOSEPHINE SMITH
LKW-6
LEONARD WELSH/MV

LEONARD WELSH/Atty. for dbt.

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
1-13-14 [[94](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

5. [12-12004](#)-B-13 GREGORY/PATRICIA CROWE
KDG-3
GREGORY CROWE/MV

AMENDED OBJECTION TO CLAIM OF
JPMORGAN CHASE BANK, N.A. OR
MANUFACTURES AND TRADERS TRUST
COMPANY, CLAIM NUMBER 8 .
12-17-13 [[55](#)]

JACOB EATON/Atty. for dbt.
STIP AND ORDER RESCHEDULING
HEARING TO 3/5/14 AT 1:30 PM

This matter was rescheduled by stipulation and order to March 5, 2014, at 1:30 p.m. No appearance is necessary.

6. [09-62811](#)-B-13 WARREN/SHEILA DIFFEY
PWG-5
WARREN DIFFEY/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO MODIFY PLAN
12-27-13 [[67](#)]

This matter will be continued to March 5, 2013, at 1:30 p.m. The debtors are proposing to modify a confirmed chapter 13 plan. The court must determine, *inter alia*, that the modified plan is proposed in good faith. However, the motion is devoid of any information or evidence that would inform the creditors and the court as to what specific term(s) is (are) being modified in the plan and why. The moving papers contain pages of boilerplate statements that appear to have little bearing on the matter before the court. The motion fails to give adequate notice of the relief being sought. The court will prepare a minute order. No appearance is necessary.

7. [12-16811](#)-B-13 D/ARNETTA PETERSON
RSW-2
D PETERSON/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO MODIFY PLAN
12-13-13 [[54](#)]

This motion to confirm a modified chapter 13 plan will be denied without prejudice. The record does not show that the debtor(s) filed and served the proposed modified plan with the notice on all the creditors in compliance with Local Rule 3015-1(c) (3) & (d) (1). No appearance is necessary.

8. [13-10113](#)-B-13 WAYNE/ROSITA HELM
PWG-2
WAYNE HELM/MV
PHILLIP GILLET/Atty. for dbt.

CONTINUED MOTION TO MODIFY PLAN
11-12-13 [[45](#)]

The motion will be denied for the reasons stated in the court's January 11, 2014, civil minute order. Noting else has been filed and served in response to the civil minute order. No appearance is necessary.

9. [13-17013](#)-B-13 PHILLIP/MELISSA AVALOS
PK-1
PHILLIP AVALOS/MV
PATRICK KAVANAGH/Atty. for dbt.
- MOTION TO AVOID LIEN OF
FINANCIAL CREDIT NETWORK, INC.
12-19-13 [[18](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

10. [13-16017](#)-B-13 JOSE/LUCY ROSAS
NES-3
JOSE ROSAS/MV
NEIL SCHWARTZ/Atty. for dbt.
- MOTION TO CONFIRM PLAN
12-31-13 [[53](#)]

The motion will be denied without prejudice. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c). The motion previously associated with docket control NES-3 was denied. This motion is also denied for the same reason that the prior motion was denied. The motion and moving papers were not served with adequate time to file an opposition in compliance with LBR 3015-1(d). No appearance is necessary.

11. [13-15726](#)-B-13 KEVIN/KATY CARSON
JLM-1
KEVIN CARSON/MV
JANET MERTES/Atty. for dbt.
RESPONSIVE PLEADING
- MOTION TO VALUE COLLATERAL OF
PNC BANK, N.A.
12-17-13 [[46](#)]

Based on the respondent's opposition, this matter will be continued to March 5, 2014, at 1:30 p.m. This matter is now deemed to be a contested matter. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtor(s) shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. The court will prepare a civil minute order. No appearance is necessary.

12. [13-13631](#)-B-13 NELSON/MARGARET DELGADO
MHM-1
MICHAEL MEYER/MV
- CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS AND/OR MOTION TO
DISMISS CASE
12-6-13 [[39](#)]
- ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

The matter has been withdrawn. No appearance is necessary.

13. [13-13631](#)-B-13 NELSON/MARGARET DELGADO MOTION TO CONFIRM PLAN
RSW-2 1-6-14 [[45](#)]
NELSON DELGADO/MV
ROBERT WILLIAMS/Atty. for dbt.

This motion to confirm a modified chapter 13 plan will be denied without prejudice. The record does not show that the debtor(s) filed and served the proposed modified plan with the notice on all the creditors in compliance with Local Rule 3015-1(c) (3) & (d) (1).

In addition, the motion and moving papers were not served with adequate time to file an opposition in compliance with LBR 3015-1(d). No appearance is necessary.

14. [12-13232](#)-B-13 LORI DE LEON MOTION TO VALUE COLLATERAL OF
RSW-1 KERN FEDERAL CREDIT UNION
LORI DE LEON/MV 1-22-14 [[29](#)]
ROBERT WILLIAMS/Atty. for dbt.

15. [11-63847](#)-B-13 PAUL WALKER AND PAMULA CONTINUED MOTION TO VALUE
PWG-1 WILBORNE - WALKER COLLATERAL OF HSBC BANK USA,
PAUL WALKER/MV N.A. 12-23-13 [[80](#)]
PHILLIP GILLET/Atty. for dbt.

16. [13-15149](#)-B-13 DENVER/BRENDA LATHAM MOTION TO CONFIRM PLAN
DMG-1 12-6-13 [[24](#)]
DENVER LATHAM/MV
D. GARDNER/Atty. for dbt.

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

17. [13-15657](#)-B-13 GARY SAMPLEY CONTINUED MOTION TO CONFIRM
PK-2 PLAN
GARY SAMPLEY/MV 10-30-13 [[25](#)]
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

18. [13-15478](#)-B-13 FRANCISCO/ROSA PEREZ MOTION TO AVOID LIEN OF
RSW-1 PERSOLVE, LLC
FRANCISCO PEREZ/MV 1-15-14 [[28](#)]
ROBERT WILLIAMS/Atty. for dbt.

19. [13-15478](#)-B-13 FRANCISCO/ROSA PEREZ MOTION TO VALUE COLLATERAL OF
RSW-2 GE CAPITAL RETAIL BANK
FRANCISCO PEREZ/MV 1-15-14 [[32](#)]
ROBERT WILLIAMS/Atty. for dbt.

20. [12-18682](#)-B-13 EDGAR/DELIA ALCALA MOTION TO MODIFY PLAN
RSW-4 12-16-13 [[75](#)]
EDGAR ALCALA/MV
ROBERT WILLIAMS/Atty. for dbt.

This motion to confirm a modified chapter 13 plan will be denied without prejudice. The record does not show that the debtor(s) filed and served the proposed modified plan with the notice on all the creditors in compliance with Local Rule 3015-1(c) (3) & (d) (1). No appearance is necessary.

21. [10-11283](#)-B-13 DION/RONA JIANNINE MOTION TO MODIFY PLAN
DMG-2 12-11-13 [[44](#)]
DION JIANNINE/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

The motion will be continued to March 5, 2014, at 1:30 p.m. The form of the proof of service does not comply with LBR 9014-1(d) (1) and needs to be amended (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (4)(e)). The court will prepare a minute order. No appearance is necessary.

In lieu of appearing at a continued hearing, if a proper proof of service is filed, and if the debtors and the trustee are able to reach a compromise of the trustee's objection, then they may submit a confirmation order which resolves the issue.

22. [13-14390](#)-B-13 SHIN/MICHIKO YOSHIKAWA MOTION FOR COMPENSATION FOR
PK-2 PATRICK KAVANAGH, DEBTOR'S
PATRICK KAVANAGH/MV ATTORNEY(S),
1-7-14 [[55](#)]
PATRICK KAVANAGH/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

23. [13-17292](#)-B-13 DEWAYNE MORRIS CONTINUED MOTION TO VALUE
PLG-2 COLLATERAL OF HSBC BANK USA,
DEWAYNE MORRIS/MV N.A.
RABIN POURNAZARIAN/Atty. for dbt. 12-17-13 [[21](#)]

2:00 P.M.

1. [13-17013](#)-B-13 PHILLIP/MELISSA AVALOS
MHM-1
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
1-17-14 [[30](#)]

PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

2. [13-15357](#)-B-13 CARL/DELAINA BLACK
MHM-1
MOTION TO DISMISS CASE
1-3-14 [[38](#)]
MICHAEL MEYER/MV
RESPONSIVE PLEADING

The matter has been withdrawn. No appearance is necessary.

3. [13-16580](#)-B-13 JOEL TORRES
MHM-1
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
1-3-14 [[37](#)]
MICHAEL MEYER/MV

4. [13-17088](#)-B-13 JAMES/ALICE LOCKHART
MHM-1
MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
1-15-14 [[26](#)]
MICHAEL MEYER/MV

CRAIG STREED/Atty. for dbt.
WITHDRAWN

The matter has been withdrawn. No appearance is necessary.

3:00 P.M.

1. [13-16845](#)-B-11 KEYSTONE MINE MANAGEMENT
II
PHILLIP GILLET/Atty. for dbt.
CONTINUED CHAPTER 11 STATUS
CONFERENCE
10-29-13 [[7](#)]
2. [13-16845](#)-B-11 KEYSTONE MINE MANAGEMENT
JET-1 II
JOHN HAGESTAD/MV
PHILLIP GILLET/Atty. for dbt.
WILLIAM LOBEL/Atty. for mv.
RESPONSIVE PLEADING
CONTINUED MOTION TO APPOINT
TRUSTEE
11-26-13 [[36](#)]
3. [13-16845](#)-B-11 KEYSTONE MINE MANAGEMENT
UST-1 II
TRACY DAVIS/MV
PHILLIP GILLET/Atty. for dbt.
GREGORY POWELL/Atty. for mv.
MOTION TO CONVERT CASE FROM
CHAPTER 11 TO CHAPTER 7 (FILING
FEE NOT PAID OR NOT REQUIRED),
MOTION TO DISMISS CASE
1-13-14 [[78](#)]
4. [11-15697](#)-B-11 REAL WILSON ENTERPRISES,
HAR-11 INC.
HILTON RYDER/MV
HILTON RYDER/Atty. for dbt.
MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MCCORMICK,
BARSTOW, SHEPPARD, WAYTE AND
CARRUTH, LLP FOR HILTON A.
RYDER, DEBTOR'S ATTORNEY(S),
1-8-14 [[540](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order.

It is further ordered that the applicant's fees and costs may not be paid from any funds that constitute a secured creditor's cash collateral unless and until a chapter 11 plan is confirmed or further order of the court. No appearance is necessary.

3:30 P.M.

1. [12-10963](#)-B-7 TEJWANT/KIRPAL BAL
[13-1129](#) TGF-2
STAN BOYETT & SON, INC. V. BAL
ET AL
VINCENT GORSKI/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
12-20-13 [[7](#)]